

House Republican Press Release

February 8, 2006
Press Office: 860-240-8700

Reps Miller, Rowe To Propose Measure to Reform ‘Affordable’ Housing Law; Protect Neighborhoods



Noting that “activist” Housing Court judges have almost always sided with developers and against municipalities in affordable housing cases, state Representatives Lawrence G. Miller and T. R. Rowe today vowed to introduce legislation that would even the playing field when local land use boards reject affordable housing projects and developers appeal those decisions to state housing courts.

“When everything else fails, unscrupulous developers have always been able to exploit the state’s ‘affordable’ housing law to compel towns to accept high-density housing projects in locations where they are completely inappropriate – such as established single-family neighborhoods or areas zoned for business and commercial development,” said Representative Miller, R-122nd District.

“The reason the law has been such a bonanza for developers is that it makes it almost impossible for towns to prevail when a developer appeals an unfavorable decision on an affordable housing project to a state housing court,” Representative Miller said. “In appeals involving a land use board’s denial of any other kind of project, the burden of proof is on the developer - not the town. Under the current affordable housing law, when a land use board rejects an affordable housing project and the developer appeals the ruling to the housing court, the burden of proof is on the municipality to show that the denial was justified rather than on the developer to prove why the decision was flawed.”

“Oftentimes, when a land use board denies an application for a high-density housing project for any one of a number of legitimate reasons, the developer makes a few minor changes in the project, designates it an affordable housing project, and brings it back to the land use board,” Representative Miller said. “Because the law is weighted in favor of the affordable housing developer, it makes it extremely difficult for towns to win on appeal - and for that reason, many towns simply give up rather than spend tax dollars on cases they are almost certain to lose.”

Representative Miller said the legislation he and Representative Rowe intend to offer “will change the affordable housing law to put the burden of proof back where it belongs - on the developer whose application was denied by a local land use board.”

“For too long, municipalities have borne the burden of this unfair mandate. This legislation will help correct that inequity,” said Representative Rowe, R-123rd District.

“While the affordable housing law may have been put on the books with the best intentions in mind, it has been widely abused over the years by developers as an easy way of getting around local zoning regulations,” Representative Miller said. “If the burden in affordable housing cases is once again placed on developers to prove conclusively that municipalities improperly rejected their proposals it will mean their proposals will face the same scrutiny that other projects face when they appeal denials by local land use boards. In the end, it will lead to better-designed affordable housing projects located in areas where they will generate the least amount traffic congestion and not require extensive investment by host communities in new water and sewer lines.”

“If enacted, our bill will ensure that local land use boards will once again be playing the lead role in guiding development in their communities,” Representative Miller said. “That is as it should be. Local planning, zoning and inland wetlands commissions are composed of citizen volunteers who have a better understanding of local conditions and needs and can make better-informed decisions on projects that come before them than housing court judges who do not live in the communities that will be impacted by them for years to come.”